

September 8, 2014

A Taxing Question



©iStockphoto.com/scanrail/xxSANCHESxx

Budget & taxes

Performance-based budgeting catching on again in states

5

Politics & leadership

Money flowing into statehouse races

8

Governors

Brown appeals teacher tenure ruling

9

Bird's eye view

3

Hot issues

11

Once around the statehouse lightly

13

The next issue of Capitol Journal will be available on September 15th.

Top Story

States say they are being far more cautious with the tax incentives they offer companies. But they are still handing them out in droves.

SNCJ Spotlight

Business as usual for business tax breaks?

In Dec. 2012, *The New York Times* ran a series of articles casting the billions of dollars in tax incentives state and local governments provide to businesses each year in an unfavorable light (see GOVERNMENTS PAYING PRICE FOR CORPORATE INCENTIVES in the Dec. 10, 2012 issue of *SNCJ*). Although the investigative series drew quite a bit of criticism from various quarters for inaccuracies and



By Korey Clark

distortions in its reporting, it also drew plenty of attention from state lawmakers. But two years later, despite greater scrutiny of business tax incentives, they remain ubiquitous in the states.

The main thrust of *The Times* series was that state and local governments give away over \$80 billion a year in business tax incentives without knowing whether or not they actually work. Since the series' publication, several states have conducted detailed studies of their tax incentive programs.

Florida's Office of Program Policy Analysis and Government Accountability (OPPAGA) released the results of such a study in January. And an analysis of that study by the Washington, D.C.-based Tax Foundation found that several of the state's incentives "failed to produce the number of jobs they were supposed to."

While the state's Qualified Target Industry Tax Refund Program, for instance, created 37,103 jobs, or 27 percent, more than the 29,265 promised, the Innovation Incentive Program, created only 857, or 48 percent, of the 1,771 jobs promised, and the Quick Action Closing Fund Program created only 5,289, or 62 percent, of the 9,387 jobs promised. Even more of a concern to the Tax Foundation's Lyman Stone was that Florida doled out \$368 million in incentives under the Innovation Incentive Program, which, divided by the 857 jobs it created, works out to about \$429,000 in tax breaks per job.

A study done in 2013 for the New York State Tax Reform and Fairness Commission, created by Gov. Andrew Cuomo (D) in 2012, produced similar results. An analysis of that study by the Pulitzer Prize-winning former *New York Times* tax reporter David Cay Johnston found that the amount of tax incentives New York gave to businesses tripled between 2005 and 2013, to \$1.7 billion, while the total number of employed New Yorkers declined by 175,000, or 2 percent, between 2005 and 2012.

"Think of it this way: Over nine years, the state of New York gave businesses roughly \$10 billion, or almost \$1,400 from each household, in a jobs program that eliminated 175,000 jobs at an average cost of \$57,000," Johnston wrote.

This year, Indiana enacted HB 1020, the Indiana Economic Development Tax Incentives Evaluation Act. The law, which was signed by Gov. Mike Pence (R) in March, requires evaluations of all of the state's economic development incentives every five years to determine whether they are meeting their goals or need to be refined. The law also mandates public hearings to go over the evaluations' findings.

The week in session

States in Regular Session: DC, PR

States in Informal Session: MA

States in Recess: DE "c", IL, MI, NJ, NY, PA, US, VA "a"

States in Special Session: CA "b"

States currently prefilng for 2015 Session: CO, FL, KY, MT, NV, VA, WY

States adjourned in 2014: AK, AL, AR, AR "a", AZ, AZ "a", CA, CA "a", CO, CT, DE, DE "b", FL, FL "a", GA, HI, IA, ID, IL "a", IL "b", IN, KS, KY, LA, MD, ME, MN, MO, MS, MS "a", MS "b", NC, NE, NH, NJ "a", NM, OK, OR, PR "a", PR "b", RI, SC, SD, TN, UT, VT, WA, WA "a", WA "b", WA "c", WI, WI "c", WV, WV "a", WV "b", WY

Letters indicate special/extraordinary sessions

— Compiled By FELICIA CARRILLO
(session information current as of 9/2/2014)
Source: State Net database

Rhode Island's General Assembly passed a tax incentive evaluation bill last session "with only a single dissenting vote," according to *The Indianapolis Star*, and at least four states in addition to Indiana — Maine, Mississippi, Nebraska and North Dakota — considered similar measures this year.

States have done more than just study the effectiveness of tax incentives, however. In July 2013, for example, California Gov. Jerry Brown (D) successfully pushed an overhaul of that state's nearly three-decade-old, \$750 million-per-year Enterprise Zone program through the Legislature.

At the time, Brown called the business tax incentive program "wasteful," according to the *Los Angeles Times*.

"It's inefficient and not giving taxpayers the biggest bang for their buck," he said.

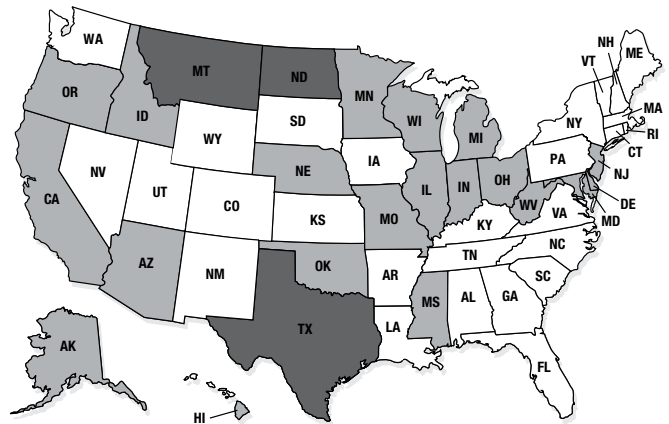
Although supporters of the Enterprise Zone program had claimed it created tens of thousands of new jobs in the state and saved more than 100,000 others from disappearing in 2012 alone, critics had pointed to studies showing enterprise zones fail to create jobs that would not have been created otherwise and mainly benefit large companies that don't need the tax breaks.

Brown's reform plan (AB 93) eliminated the Enterprise Zone program and redirected its funds into a sales tax credit to boost manufacturing and biotech research and development, incentives for hiring the poor and unemployed, and rewards for specific businesses that move to the state.

But while California went in one direction on tax incentives, New Jersey went in another. A couple of months after the Golden State passed AB 93, the Garden State passed AB 3680, the New Jersey Economic Opportunity Act, lifting the limits on economic incentives to corporations and developers and broadly expanding the geographic areas where companies can qualify for those breaks.

Gov. Chris Christie (R) praised the bill at a press conference where he was joined by Senate President Stephen Sweeney (D) and Assembly Speaker Sheila Oliver (D),

Bird's eye view



Source: National Conference of State Legislatures

Not in session in 2014 Not in session but considered tax changes

Half of states considered big tax changes this year

A spring survey of legislative fiscal offices by the National Conference of State Legislatures found that significant tax change proposals were being discussed in 23 of the 46 states that held regular legislative sessions this year. That legislation included personal and corporate income tax cuts, such as those enacted in Missouri and Indiana, respectively, as well as business tax incentives, like California's film and television tax credit program. Nevada didn't have a regular legislative session in 2014, but voters there will consider a ballot measure aimed at creating a new tax rate for businesses with over \$1 million in revenue.



who regularly sparred with the governor on issues but whose respective chambers endorsed AB 3680 by overwhelming margins.

“This new group of incentives will lead to making us more competitive with other states across the country,” said Christie, according to *The Star-Ledger*, with Sweeney adding: “Jobs aren’t Republican or Democrat. They’re jobs. And people in this state need jobs.”

More recently, tax incentives for film and television productions — a subject of debate in statehouses across the country for years — have become a flash point. The aggressive efforts of the production company behind the Netflix series “House of Cards” to obtain millions of dollars more in tax breaks from the state of Maryland, where the show is filmed — and the refusal of that state’s House of Delegates to be bullied into granting them — attracted national media attention earlier this year.

California, meanwhile, in an effort to stem the exodus of film and TV production out of Hollywood to other states, like Louisiana, offering more lucrative entertainment tax breaks, passed AB 1839, more than tripling funding for the Golden State’s film and TV tax credit program to \$330 million a year.

In a report this past spring, the state’s nonpartisan Legislative Analyst’s Office had expressed concern about both the state’s existing program — pointing out that it returned only 65 cents in tax revenue for each \$1 issued in film tax credits — and proposed changes that might simply encourage other states to ratchet up their own credits.

“In responding to other states increasing subsidy rates, California may only stoke this race to the bottom,” the report stated, according to an Aug. 30 story in the *Los Angeles Times*.

But AB 1839 does make some substantive changes to California’s film and TV tax credit program, including doing away with the controversial lottery system that had previously been used to distribute tax credits and awarding those credits based on how many jobs projects would create instead.

California legislative leaders also maintained that AB 1839 was necessary to protect a flagship industry in the state.

“This is a crown-jewel industry that provides jobs and opportunity for middle-class families in every region of our Golden State,” said Senate President Pro Tem-elect Kevin de Leon (D), as reported by the *LA Times*.

Washington state went to even greater lengths to protect one of its flagship industries. Last November, Washington Gov. Jay Inslee (D) signed into law \$8.7 billion in tax breaks for aircraft manufacturer Boeing in an effort to keep production of the company’s next-generation 777x jetliner in the state. Greg LeRoy, executive director of Good Jobs First, a Washington, D.C.-based advocacy group that tracks corporate tax subsidies, said the deal was noteworthy “for being the biggest package ever in history,” according to *The Washington Post*.

States have also shown they’re still willing to break the bank when it comes to landing big projects in general. For instance, five states — Arizona, California,

●
●
●
●
●

Nevada, New Mexico and Texas — were on the short list of those vying for Tesla Motors’ planned \$5 billion “gigafactory” lithium-ion battery plant, which could provide as many as 6,500 jobs by 2040. And that was even after Tesla CEO Elon Musk had said the winning bidder would have to provide about 10 percent of that planned facility’s cost, or \$500 million, in incentives. The amount reportedly offered by the winning state, Nevada, was actually \$1.25 billion over 20 years, according to the *Reno Gazette-Journal*. But as *Forbes* pointed out, the Silver State had other things going for it as well, including physical proximity to Tesla’s California factory, the nation’s only active lithium mine and right-to-work status, limiting unions from requiring the payment of dues as a condition of employment.

States may be getting a bit looser with their wallets as the economy continues to improve as well. *The Sacramento Bee* reported that the number of tax credit proposals has picked up considerably in California since the recession, with dozens of introductions this session.

“These tax credits seem to be very popular these days,” said California Sen. Lois Walk (D), who chairs the committee in her chamber that reviews such legislation. “But I think taxpayers are entitled to a very serious examination of the value of how the money is being spent.”

Whether that perspective is anything new in the Golden State or is pervasive there or elsewhere in the country isn’t entirely clear.

— By KOREY CLARK

Budget & taxes

PERFORMANCE-BASED BUDGETING CATCHING ON AGAIN
IN STATES: “Performance-based budgeting,” which started to catch on among state governments in the 1990s but fell out of favor during the Great Recession, is reportedly making a comeback. And not everyone is happy about that.

Performance-based budgeting relies on specific measures of past performance, such as how many people were served and for how much money, to determine how much more or less should be allocated for a particular government program. That allows for accountability — the rewarding of achievement and sanctioning of poor performance — rather than mere “compliance with the law and previous funding decisions” as with traditional line-item budgeting, according to the National Conference of State Legislatures (NCSL).

Forty-four percent of the respondents to a 2013 survey by the National Association of State Budget Officers (NASBO) of its members indicated their state used performance budgeting, sometimes in conjunction with another budgeting

method, like the line-item process. But NASBO concluded in a report incorporating the results of that survey that “despite widespread interest and growing use of performance budgeting practices, the process of actually tying performance information to funding decisions in an effective, meaningful and practical manner continues to be a major challenge for all levels of government.”

According to John Mercer, Senior Consultant for Government Performance at Capital Novus in Fairfax, Virginia, the problem is that in many cases there is not enough follow-through on the plans laid out by lawmakers.

“The concept has been around a long time, but there has been [a] lot of struggling with it, it’s turned into a paperwork exercise and it became something the civil servants were dispirited by,” he said. “All the work they were going through that they were told they must do, wasn’t really affecting budget decisions.”

Former Texas budget director Wayne Roberts is ostensibly one of the civil servants Mercer was referring to, although he seems more defiant than dispirited about his experience with performance budgeting. He said all the performance measures have done is increase the size of the state budget document. He also said savings were elusive with performance budgeting because its system of rewards and penalties was impractical.

“The penalties could never be imposed because agencies are created to serve a clientele,” he said. “Who are you going to hurt? You are going to hurt the recipients of state funds.” (STATELINE.ORG)

HALLIBURTON AGREES TO PAY \$1.1B IN GULF OIL SPILL

DAMAGES: Halliburton agreed last week to pay \$1.1 billion in damages to Gulf Coast businesses, residents and local governments that suffered losses due to the 2010 Deepwater Horizon oil rig disaster in the Gulf of Mexico.

“Halliburton stepped up to the plate and agreed to provide a fair measure of compensation to people and businesses harmed in the wake of the Deepwater Horizon tragedy,” said Stephen Herman and James Roy, lawyers representing the plaintiffs.

The settlement marked “the very first time — despite three years of official investigations and litigation implicating the company — that Halliburton has acknowledged that it played a role in the accident,” Geoff Morrell, a spokesman for BP, said in an emailed statement. BP has already paid out \$28 billion in claims associated with the spill.

But Halliburton continues to maintain that it was not at fault for the deficient cement work on the Deepwater Horizon rig that regulators and government investigators have found was a direct cause of the accident. Halliburton says it prepared the cement to BP’s specifications and that Transocean Ltd., which owned the Deepwater Horizon rig, and BP, which operated it, failed to test the cement’s integrity.

Experts said that by settling, Halliburton would avoid the risk of having to pay higher damages if U.S District Judge Carl Barbier in New Orleans, who was

weighing how much responsibility each of the three companies should bear for the accident, found Halliburton to be grossly negligent.

“This lifted the uncertainty and eliminated the impact of a potential negative ruling from Judge Barbier,” said Tom Claps, a litigation analyst for Susquehanna Financial Group.

But ultimately Judge Barbier absolved Halliburton of much of the fault for the spill, ruling that BP bore 67 percent of the blame, Transocean Ltd. bore 30 percent, and Halliburton bore the remaining 3 percent. (NEW YORK TIMES, WALL STREET JOURNAL)

LOCAL DEBT UNEXPECTEDLY HIGH IN TX: Local government debt is hardly a rarity around the country in recent years. But with one of the fastest growing economies in the nation, Texas is one of the last states where you’d expect to find it. Nonetheless, Texas’ local debt per capita is the second-highest of the 10 largest states.

Over half of all Texans live in counties, cities or school districts where taxpayer-supported debt, including projected interest, exceeds \$1 billion. In parts of Dallas and Harris, the state’s two most populous counties, the local debt level is over \$5 billion.

Many of the local governments are counting on population and business growth to provide enough revenue to pay off the debt ahead of schedule, but if that growth doesn’t occur, taxpayers could be saddled with the burden for decades.

“This is a pervasive problem at every single level,” said Texas Comptroller Susan Combs. “Nobody gets off scot-free on this.”

But local officials maintain that issuing debt is the only way to fund essential government services with the state gaining over 1,000 people a day.

“Texas does a really good job of bringing people to Texas but not a very good job of supporting the local infrastructure, like schools and libraries and parks and all those things that make people want to stay in Texas once they get here,” said Michelle Smith, executive director of the Austin-based Fast Growth School Coalition, which seeks legislative solutions to help school districts cope with the demands of their rapidly growing populations. (TEXAS TRIBUNE [AUSTIN])

BUDGETS IN BRIEF: The federal government has forgiven \$391 million in disaster loans to **LOUISIANA**, which is 95.5 percent of the total amount loaned to

In the hopper

At any given time, State Net tracks tens of thousands of bills in all 50 states, the US Congress and the District of Columbia. Here’s a snapshot of what’s in the legislative works:

Number of 2014 Prefiles last week: 0

Number of 2015 Prefiles last week: 65

Number of Intros last week: 29

Number of Enacted/Adopted last week: 16

Number of 2014 Prefiles to date: 21,427

Number of 2015 Prefiles to date: 3,908

Number of 2014 Intros to date: 81,452

Number of 2013 Session Enacted/Adopted overall to date: 40,747

Number of 2014 Session Enacted/Adopted overall to date: 26,205

Number of bills currently in State Net Database: 170,754

— Compiled By FELICIA CARRILLO
(measures current as of 9/2/2014)
Source: State Net database

the state after Hurricane Katrina in 2005 (TIMES-PICAYUNE [NEW ORLEANS]).

- Legalizing same-sex marriages in **GEORGIA** would inject nearly \$80 million into the state's economy through wedding spending by many of the state's 21,318 same-sex couples, according to a study released Thursday by the University of California, Los Angeles School of Law (ATLANTA JOURNAL-CONSTITUTION).

— *Compiled by KOREY CLARK*

Politics & leadership

MONEY FLOWING INTO STATEHOUSE RACES: Campaign spending on state legislative races is on a record pace this year. Contributions will likely top the \$2.1 billion candidates, caucuses and political committees collected in the last two-year election cycle, in 2011-2012, according to Edwin Bender, executive director of the National Institute on Money in State Politics.

The record spending is due in large part to the U.S. Supreme Court's 2010 Citizens United ruling, which opened the door to unlimited independent political expenditures by corporations and unions. But it also reflects the growing recognition that states play a major role in regulating certain industries, such as energy, gambling and insurance, and that they are shaping an array of hot-button issues, including the Affordable Care Act, gay rights, gun control and immigration, due to political gridlock in Washington.

"The stakes are higher and ever higher with the issues in statehouses," said Thad Kousser, a political science professor at the University of California, San Diego. "Insurance, environmental, the Affordable Care Act — statehouses have a huge amount of power over each of these. The education wars — that's also a state decision." (STATELINE.ORG)

FL JUDICIAL CAMPAIGN CASE HEADED FOR HIGH COURT? When Lanell Williams-Yulee ran for a county judgeship in Florida five years ago, she signed a letter soliciting contributions for her campaign. That action landed her in court for violating a state ban prohibiting judicial candidates from personally requesting campaign donations. Williams-Yulee ended up losing both the election and the case, with the state Supreme Court just this past May rejecting her attorneys' argument that the ban was unconstitutional.

Williams-Yulee's attorneys have petitioned the U.S. Supreme Court to hear the case. The high court receives thousands of such requests each year, but Williams-Yulee's cause got a boost last month from the Florida Bar, which actually filed the

initial complaint against Williams-Yulee in 2009 but which is now urging the high court to consider the case in order to resolve issues that have been handled differently by appellate courts across the country.

“The issues at the heart of the conflicts are not such that they can accommodate different interpretations and applications in different jurisdictions and judicial forums without insulting fundamental principles,” said the Bar’s brief. “In this instance, the conflicts deal with the proper balance between two compelling interests at the heart of a free and just society. The manner in which that balance is struck should be applied uniformly to all citizens in all places and before all tribunals.” (MIAMI HERALD)

POLITICS IN BRIEF: Four conservative **OHIO** House Republicans took out a petition last week to force a vote on a bill (HB 269) requiring prospective voters to show photo identification before casting a ballot. The signatures of 50 House members are needed to force that vote (COLUMBUS DISPATCH). • A measure to gradually raise **ARKANSAS’** minimum wage from its current rate of \$6.25 an hour to \$8.50 an hour by 2017 has been approved for the state’s November ballot. Democrats are hoping the issue will boost turnout of their party’s voters enough to prevent a Republican sweep of statewide offices (ASSOCIATED PRESS, ARKANSAS DEMOCRAT-GAZETTE [LITTLE ROCK]).

— *Compiled by KOREY CLARK*

Governors

BROWN APPEALS TEACHER TENURE RULING: California Gov. Jerry Brown (D) has appealed a court ruling that struck down teacher tenure laws in the Golden State. State Attorney General Kamala Harris (D) filed the suit on Brown’s behalf a day after Los Angeles County Superior Court Judge Rolf M. Treu finalized his own earlier ruling in the case, *Vergara vs. California*, in which he declared tenure laws unconstitutionally deprived poor kids of an education on par with children from wealthier school districts. Brown’s appeal doesn’t necessarily challenge Treu’s conclusion, instead contending the case should have been handled by a higher court.

“Changes of this magnitude, as a matter of law and policy, require appellate review,” Harris wrote in her one-page appeal brief, adding that Treu had “declined to provide a detailed statement of the factual and legal bases for [his] ruling” as requested by defendants.

The case was brought forth on behalf of nine public school children organized as a group called Students Matter and backed by Silicon Valley technology millionaire

David Welch. Treu's ruling struck down tenure laws that granted Golden State public school teachers broad tenure after just two years on the job. Those rules, among several things, allowed districts to base teacher layoffs on seniority rather than the quality of the teacher's performance.

Critics of the law hailed Treu's decision and urged Brown not to appeal. But teacher unions, furious over what they argue is teachers being made scapegoats for much broader problems in the state's education system, lauded Brown's action. The state's two primary teacher unions, the California Teachers Association and the California Federation of Teachers, said they would file a companion appeal as well. (SACRAMENTO BEE, KPCC.ORG [PASADENA], NEW YORK TIMES, EDUCATION WEEK)

In case you missed it

California lawmakers plowed through over a thousand bills in August, including some of the most critical and complex issues of the year.

In case you missed it, the story can be found on our Web site at

http://www.statenet.com/capitol_journal/09-01-2014/html#sncl_spotlight.

MCDONNELLS FOUND GUILTY ON CORRUPTION CHARGES:

Former Virginia Gov. Robert McDonnell and his wife Maureen were found guilty on multiple public corruption charges last week, a case that stemmed from the couple granting significant favors to wealthy Old Dominion businessman Jonnie R. Williams in exchange for more than \$177,000 worth of expensive gifts, vacations, and tens of thousands of dollars in loans. A jury in Richmond found McDonnell, once a rapidly rising star in the Republican Party who was on the short list to become Mitt Romney's vice-presidential running mate in 2012, guilty on 11 of 14 counts of conspiracy, bribery and extortion. Ms. McDonnell was convicted on nine corruption counts and one of obstruction of justice. The pair was acquitted of bank fraud charges. Each count carries a maximum 20-year prison sentence, though McDonnell's defense lawyer said he would appeal the verdict. Sentencing is set for January 6, 2015. McDonnell is the first Virginia governor to ever face trial for conduct in office, and is now also the first to be convicted. (POLITICO, NEW YORK TIMES, ABCNEWS.COM)

GOVERNORS IN BRIEF: Saying wildfire hazards have decreased, **WASHINGTON** Gov. Jay Inslee (D) lifted a burning ban he had imposed on 20 counties east of the Cascade Mountains (KOMONEWS.COM [SEATTLE]). • **OKLAHOMA** Gov. Mary Fallin (R) signed a new compact with the Choctaw Nation that establishes how the state and tribe will work together to issue Choctaw vehicle tags (KTEN.COM [DENISON]). • **DELAWARE** Gov. Jack Markell (D) signed HB 13, a measure that requires lawmakers to wait for at least one year after leaving office before accepting a job as a paid lobbyist. The measure takes effect in 2017,

● giving current lawmakers the chance to complete their current terms and accept a lobbying job before the waiting period is in place (DELAWAREONLINE.COM). • **MARYLAND** Gov. Martin O'Malley (D) ordered the Old Line State's only state-run jail to stop honoring federal requests to detain inmates beyond their scheduled release dates in order to explore potential immigration violations, unless there is probable cause that those who are being held have broken the law. The directive applies only to the state's lone facility in Baltimore, but immigration advocates and other observers believe most local jurisdictions will follow suit (WASHINGTON POST).

— Compiled by RICH EHISEN

Hot issues

B **USINESS:** Electric carmaker Tesla announces it will build a highly-coveted battery factory in **NEVADA**. The possible siting of the plant had fostered a fierce competition between five states: **NEVADA, CALIFORNIA, TEXAS, NEW MEXICO** and **ARIZONA**. The plant is expected to create approximately 6,500 high-paying jobs (SAN JOSE MERCURY NEWS). • **CALIFORNIA** lawmakers give final approval to AB 1522, which would require Golden State employers to offer both full- and part-time workers one hour of sick leave for every 30 hours worked, up to three full days a year. It is now with Gov. Jerry Brown (D), who is expected to sign it into law (STATE NET). • **CALIFORNIA** lawmakers also give final endorsement to SB 270, which would ban grocery stores from bagging customer's items single-use plastic bags and authorize those facilities to charge consumers 10 cents for using a paper or reusable plastic bag instead. It is also with Brown for review (STATE NET).

EDUCATION: The U.S. Dept. of Education denies a request by **OKLAHOMA** officials to extend a No Child Left Behind waiver that allowed them to use federal funds at their discretion. The move was a reaction to Gov. Mary Fallin (R) signing HB 3399, a bill lawmakers passed earlier this year that blocks the state from using the Common Core Curriculum Standards. Losing the waiver means the state will now have to set aside \$29 million in federal funds it had pegged for other purposes to instead pay for tutoring and transportation by schools now considered to be in need of improvement (OKLAHOMAN [OKLAHOMA CITY]).

ENVIRONMENT: Facing a historic drought, **CALIFORNIA** lawmakers adopt two bills — AB 1739 and SB 1168 — that would collectively make the Golden State the last to regulate the use of groundwater. The measures move to

Gov. Jerry Brown (D), who must sign both for either to take effect (SACRAMENTO BEE). • **NEW YORK** Gov. Andrew Cuomo (D) signs AB 9619, which requires Empire State boat owners to use “reasonable precautions” to prevent the spread of aquatic invasive species, including cleaning, draining and drying their boat and trailer of visible plant and animal matter after pulling them out of the water. Offenders face warnings and then, if persistent, fines up to \$1,000 (ALBANY TIMES-UNION). • **DELAWARE** Gov. Jack Markell (D) signs SB 258, which changes a dozen minor environmental offenses associated with wildlife, hunting, fishing and boating from environmental misdemeanors to environmental violations and exempts these violations from being included in state criminal history records (DELAWARE GOVERNOR’S OFFICE). • A federal judge rules that oil company British Petroleum was grossly negligent in its role in the 2010 Gulf of Mexico oil spill, the largest in U.S. history. The spill caused significant environmental damage in the waters of five states: **LOUISIANA, FLORIDA, ALABAMA, MISSISSIPI** and **TEXAS**. The ruling from U.S. District Judge Carl Barbier opens the company up to possibly paying billions of dollars more in fines (BLOOMBERG).

HEALTH & SCIENCE: The U.S. Court of Appeals for the D.C. Circuit agrees to reconsider a July ruling from a three-judge panel that would have blocked the federal government to offer health care subsidies to people enrolled in federal health benefits exchanges. The earlier ruling said only residents in the 14 states with a state-run exchange could access the subsidies, effectively barring residents in the other 36 states from doing so. The full 13-member court will hear new arguments on Dec. 17 (REUTERS). • **CALIFORNIA** lawmakers give final approval to AB 1014, a bill that would allow parents to obtain a restraining order allowing police to remove guns from someone displaying mental instability. The measure, a response to a mass shooting earlier this year near the campus of the University of California Santa Barbara, is now with Gov. Jerry Brown (D) for review (SACRAMENTO BEE, STATE NET).

Upcoming elections

(09/5/2014 - 09/26/2014)

09/09/2014

Delaware Primary Election

House (All)

Senate Districts 2, 3, 4, 6, 10, 11, 16, 17, 18,21

Constitutional Officers: Treasurer,

Attorney General, Auditor

US House (All)

US Senate (Class 2)

Massachusetts Primary Election

House (All)

Senate (All)

Constitutional Officers: Governor, Lieutenant

Governor, Attorney General, Secretary of the Commonwealth, Treasurer and Receiver-General, Auditor

US House (All)

US Senate (Class 2)

New Hampshire Primary Election

House (All)

Senate (All)

Constitutional Officers: Governor

US House (All)

US Senate (Class 2)

New York Primary Election

Assembly (All)

Senate (All)

Rhode Island Primary Election

House (All)

Senate (All)

Constitutional Officers: Governor, Lieutenant

Governor, Secretary of State, Attorney General, General Treasurer

US House (All)

US Senate (Class 2)

Texas Special Election

Senate District 28

●
●
●
●
●

SOCIAL POLICY: A federal court temporarily limits the legal impact of a **LOUISIANA** law that would have required doctors who perform abortions to secure admitting privileges at a local hospital. U.S. District Judge John deGravelles ruled that abortion providers currently in the process of obtaining those admitting privileges cannot be penalized for practicing in the meantime. The measure was set to take effect last week (POLITICO). • Still in **LOUISIANA**, a federal judge upholds a Pelican State law that bars same-sex marriage. U.S. District Judge Martin Feldman rejected a call to overturn the 2004 law, which voters adopted as a constitutional amendment. Plaintiffs indicated they would appeal the ruling (TIMES-PICAYUNE [NEW ORLEANS]). • A federal judge blocks a **TEXAS** law that would have required all clinics offering abortion services in the Lone Star State to meet the building, equipment and staffing standards of hospital-style surgery centers. Judge Lee Yeakel said the mandate placed unjustified obstacles on women's access to abortion without providing significant medical benefits. State officials said they would appeal the ruling to the Fifth U.S. Circuit Court of Appeals (NEW YORK TIMES). • A three-judge panel of the U.S. 7th Circuit Court of Appeals unanimously rules that same-sex marriage bans in **WISCONSIN** and **INDIANA** are unconstitutional. Both states are expected to appeal the rulings to the U.S. Supreme Court (ASSOCIATED PRESS).

— Compiled by RICH EHISEN

Once around the statehouse lightly

MONKEY MAN: U.S. House Speaker John Boehner is without question a very powerful guy. But to hear him tell it, he's no more than a monkey banging a pair of cymbals all day. Boehner posted a video on YouTube a few weeks back that showcases a wind-up, cymbal-banging toy monkey he keeps in his office, a present from his staff he says is right in line with "what I do all day," a reference to his usually jam-packed schedule. The toy has become a fixture in Boehner's office, welcoming dignitaries and other VIPs from around the world. But wouldn't someone in his position be afraid being likened to a toy monkey might hurt his credibility? Just the opposite, *Gawker* reports, noting the Speaker's official 2013 Intern Manual reveals the monkey's history to the unpaid go-fers and makes sure they know it shows Boehner's sense of humor. Oh, and don't talk to the press.

JAILHOUSE, UH, STATEHOUSE ROCK: As bad neighborhoods go, you might want to steer clear of the California state Senate. As the *Sacramento Bee*

reports, three sitting senators found themselves under arrest this year, a rate (three out of 40) almost double that of the general population (1.6 per 40 residents).

In fact, only Fresno, which had a ratio slightly above 2/40, was even close. For those keeping score, Sen. Ron Calderon got nabbed in February for allegedly taking bribes from an undercover FBI officer, Sen.

Leland Yee got popped in March for allegedly trying to broker assault rifles, and just last month Sen. Ben Hueso got arrested on suspicion of drunk driving. A fourth, Sen. Rod. Wright, was convicted of voter fraud and perjury in January, but he actually committed the crime last year.

Upcoming stories

Here are some of the topics you may see covered in upcoming issues of the *State Net Capitol Journal*:

- **Election previews**
- **Common Core**
- **Student loan debt**

SPACE ODDITY: If ever there was a fish out of water, it would seem to be anti-tax guru Grover Norquist at the annual hippiefest known as Burning Man, the 70,000-attendee strong event held every Labor Day weekend in Nevada's Black Rock Desert. And yet, as *New York Magazine* reports, there he was last week, fully ensconced among the counter-culture crowd, the insane art and the all-encompassing dirt. And what would someone who seems to have a really large stick inserted permanently in his posterior think about such craziness? Why, he loved it of course! To Norquist, Burning Man isn't counter-culture hippie liberalism at all. Nope, to him it represents the best of Republican values, meaning no government or authority to speak of, with everyone there pretty much on their own. Norquist wasn't the only celebrity type there either, as techie folks like Mark Zuckerberg and Elon Musk also made the event. Because nothing says self-reliance like taking your private helicopter to Burning Man.

BROTHER CAN YOU SPARE A DIME: You have to feel sorry for the 1 Percent crowd these days. It seems everyone these days is disparaging rich folks, blaming them and their influence on politics for the rapidly expanding wealth gap in this country. But now California has really gone overboard. As the *Los Angeles Times* reports, lawmakers there recently passed a bill that bars the owners of professional sports franchises from deducting league fines from their taxes as a business expense. The measure could easily have been called the Donald Sterling rule, given that it came about to ensure the former owner of the NBA's Los Angeles Clippers, who was forced to sell the team after he was caught on tape making racist statements, from tangentially benefitting from paying the \$2.5 million fine the league also imposed on him. But don't fret for poor Mr. Sterling — the team fetched a cool \$2 billion, a slight profit over the \$12 million he paid for it.

— By *RICH EHISEN*



Editor: Rich Ehisen — capj@statenet.com

Associate Editor: Korey Clark — capj@statenet.com

Contributing Editors: Mary Peck

Editorial Advisor: Lou Cannon

Correspondents: Richard Cox (CA), Steve Karas (CA), James Ross (CA), Lauren Davis (MA), Ben Livingood (PA), Cathy Santsche (CA) and Felicia Carrillo (CA)

State Net[®]
A LexisNexis[®] Company

Graphic Design: Vanessa Perez

State Net ISSN: 1521-8449



You've just read **State Net Capitol Journal**, the insider's source for political and legislative news in the 50 states.

State Net Capitol Journal is published 40 times annually and delivered over the Web or email.

**For a FREE subscription,
visit our Website at
www.statenet.com
and click on the
"Register Now" icon.
Or call us at
916.444.0840**

A publication of State Net — *Information and Intelligence on the 50 States & Congress*

The Power to Know. Act. Connect.

Unique State Net tools, methods and expertise overcome the challenge of managing government affairs information. We help minimize your risks and empower your team for success.

State Net: the service you can trust when you need to be right.

Learn more about our issue-based reporting solutions today:
info@statenet.com or www.statenet.com • 800.726.4566